

United States District Court
District of Massachusetts

PARENTS OF DANIELLE,
Plaintiffs,
v.

MASSACHUSETTS DEPARTMENT OF
EDUCATION, DAVID P. DRISCOLL,
COMMISSIONER et al.,

Defendants.

Civil Action No.
04-10994-NMG

ORDER

GORTON, J.

The plaintiffs, Parents of Danielle, filed a complaint against the defendants, the Massachusetts Department of Education, through its Commissioner, David P. Driscoll, (collectively, "the Department") and the School Committee for the Town of Sharon ("the School Cmte"), seeking review of a decision by the Massachusetts Bureau of Special Education Appeals. The Parents of Danielle failed to comply with certain scheduling deadlines imposed by the Court in this case as a consequence of which the School Cmte has moved to dismiss their complaint with prejudice for failure to prosecute. On the same date the School Cmte filed its motion to dismiss, it withdrew its motion for summary judgment then pending. Since that date, the Parents of

Danielle have filed their own untimely motion for summary judgment which the School Cmte opposes.

After consideration of all pending pleadings, the School Cmte's Motion to Dismiss the Complaint (Docket No. 38) is **DENIED**, without prejudice, and the Department's Motion to Extend Time to Respond to Plaintiff's Motion for Summary Judgment (Docket No. 53) is **ALLOWED**, subject to the new schedule set forth below. The Parents of Danielle shall respond to defendants' discovery requests and file a revised memorandum in support of their motion for summary judgment in compliance with the page and spacing requirements of Local Rule 7.1(b)(4) on or before January 26, 2006, in default of which the Court will impose appropriate sanctions and/or reconsider the School Cmte's motion to dismiss. Moreover, because of this conditional extension of discovery deadlines, defendants may file a response to plaintiffs' motion for summary judgment and/or a new (or renewed) motion for summary judgment on or before February 9, 2006.

So ordered.



Nathaniel M. Gorton
United States District Judge

Dated: January 11, 2006